

MINUTES

HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

DATE: Wednesday, January 20, 2021

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Ehardt, Vice Chairman Wisniewski, Representatives Vander Woude, Horman, Scott, Amador, Armstrong, Furniss, Hartgen, Lickley, Young, Adams, Yamamoto, Chew (Fuller), Necochea, Nash

**ABSENT/
EXCUSED:** None

GUESTS: Jerri Henry, Mary Anne Nelson, Don Carpenter, Dean Ehlert, Natalie Creed, Tiffany Floyd, DEQ; Michael Reno, CDH; Shelley Roberts, IRWA; Benjamin Davenport, IMA

MOTION: **Chairman Ehardt** called the meeting to order at 1:30 p.m.

Rep. Necochea made a motion to approve the minutes of the January 14, 2021 meeting. **Motion carried by voice vote.**

Chairman Ehardt thanked **Rep. Necochea** for being a proofreader.

Chairman Ehardt turned the gavel over to **Vice Chairman Wisniewski**.

DOCKET NO. 58-0000-2000F: **Jess Byrne**, DEQ Director presented **Docket No. 58-0000-2000F**. Six fee rule chapters have not had any changes in them. Chapters 58.01.07 Rules Regulating Underground Storage Tank Systems, 58.01.08 Idaho Rules for Public Drinking Water Systems, 58.01.09 Rules Regulating Swine Facilities, 58.01.11 Ground Water Quality Rule, 58.01.14 Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services, and 58.01.18 Idaho Land Remediation Rules.

Tiffany Floyd, Air Quality Division Administrator for DEQ presented chapter 58.01.01, Rules for the Control of Air Pollution in Idaho. The chapter was revised to update federal regulations incorporated by reference with the July 1, 2020 Code of Federal Regulations (CFR) effective date.

Natalie Creed, Hazardous Waste Bureau Chief for DEQ, presented chapter 58.01.05 Rules and Standards for Hazardous Waste. Two rules were revised to update federal regulations incorporated by reference with the July 1, 2020 CFR effective date and minor non-substantive corrections were made.

In answer to committee questions, **Natalie Creed** explained Idaho is able to make comments on EPA proposed rules, but once a rule is made, it must be adopted. Idaho rules can be stricter, but not less strict than EPA rules. If DEQ fails to implement a rule the EPA can step in with higher penalties. Ms. Creed also explained the impact from this rule is minimal because it covers uncommon practices. It does not affect household waste, but includes some pharmaceuticals, health care and retail facilities. These new regulations are shared with facilities through fact sheets and workshops conducted by DEQ.

Dean Ehlert, Assessment and Compliance Bureau Chief for DEQ, presented chapter 59.01.06 Solid Waste Management Rules. Revisions were negotiated under **Docket No. 58-0106-1901** in response to **Executive Order No. 2019-02**, Red Tape Reduction Act, issued on January 21, 2019. Outdated and unnecessary rules were taken out.

Don Carpenter, Senior Mining Scientist, presented chapter 58.01.13, Rules for Ore Processing by Cyanidation. Revisions were negotiated under **Docket No. 58-0113-1901** in response to Idaho Mining Association's request for rule making. DEQ held 10 negotiated rule meetings including tribes, mining groups, conservation leagues, federal and state agencies. The rules were developed based on best available peer review science.

In answer to committee questions, **Don Carpenter** explained that many changes were a reorganization of rules with no substantive changes. The largest change was changing fees from prescriptive measures to performance limits.

Benjamin Davenport, Idaho Mining Association, expressed appreciation to DEQ. He was confident they can work with the department's new fee changes, and believed mines should pay for what is needed to get permits. In answer to committee questions, negotiations for rule changes took about 20 months, multiple drafts and about 10 meetings. Nevada was used as an example for rule making, but also Alaska, New Mexico, Arizona and others to build ground work for this rule.

Mary Anne Nelson, Surface and Wastewater Division Administrator of DEQ, presented chapter 58.01.25, Rules Regulating the Idaho Pollutant Discharge Elimination System Program. Revisions were negotiated under **Docket No. 58-0125-2001** to update federal regulations incorporated by reference with the July 1, 2020 CFR effective date and to make clarifications in response to ambiguities identified during DEQ's administration of the IPDES program. No additional costs are anticipated from these changes. Some changes include notification processes and fee changes.

In response to committee questions, **Mary Anne Nelson** explained that DFM changed the wording in this rule. The committee expressed concerns that wording for the public changed from 'shall' to 'must', and the department's wording was less stringent. Ms. Nelson pointed out that DEQ did not expect the DFM changes, and DEQ will have the ability to readdress them next year. The committee worried the marked up pages will be gone next year, and won't be able to be addressed if the docket is accepted as is. Some on the committee believed the wording made major changes to how DEQ worked with citizens. Ms. Nelson also acknowledged the concern for impact fees and environmental requirements made on small communities and noted that DEQ tries to find grants and help to support the aging infrastructure and requirements placed on small towns.

MOTION: **Rep. Hartgen** made a motion to approve **Docket No. 58-0000-2000F**.

In opposition to the motion, **Rep. Scott** expressed concern with the language, and worried it will lead to excessive fines on the community. Expressing apprehension that federal regulations could possibly be stricter and extensive in the future, Rep. Scott believed accepting this code as written would place a heavy burden on the people.

SUBSTITUTE MOTION: **Rep. Scott** made a substitute motion to **HOLD Docket No. 58-0000-2000F** for time certain, February 8, 2021.

VOTE ON SUBSTITUTE MOTION: **Chairman Wisniewski** stated he was in doubt regarding the voice vote and asked for a show of hands. **By a show of hands, the substitute motion carried.**

MOTION: Rep. Scott made a motion to adjourn. Motion carried by voice vote.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 3:20 p.m.

Representative Wisniewski
Chair

Maggie Price
Secretary